

COMMISSION ON CHILDREN'S JUSTICE
FEBRUARY 17, 2003
MEETING MINUTES

Members Present: Judges John Holstein, Chair, Kip Seely (for Susan Block), Thomas Frawley, and James Welsh; Commissioner John Payne; Senators Pat Dougherty, Bill Foster, and Anita Yeckel (for Peter Kinder); Representative Yvonne Wilson; Julie Cole-Agee, Beth Dessem, Patrick Lynn, Frank Martin, Steve Renne, Melanie Scheetz, Betty Sims, and Andrea Whitfield

Members Not Present: Judges Glenn Norton, Nancy Rahmeyer and Roy Richter; Representatives Catherine Hanaway and Bryan Stevenson; and Deanna Gallagher

Commission Staff Present: Lynette Ricks and Gary Waint

I. CALL TO ORDER/INTRODUCTIONS/APPROVAL OF MINUTES

The Commission on Children's Justice was called to order by the Honorable John C. Holstein, Chair, in House Hearing Room 6 in the State Capitol, Jefferson City, Missouri at 10:00 a.m.

The Chair called for approval of the minutes from the meeting of February 10, 2003.

Commissioner Payne clarified that at the February 10, 2003, meeting he did express concerns about the potential for injury or damage to children if juvenile court child abuse and neglect proceedings were open to the public, as described in the Minnesota report.

Judge Frawley suggested several editorial/grammatical changes to the minutes, which were approved and incorporated into the minutes.

The record from February 10, 2003, was corrected to show that Senator Anita Yeckel attended for Senator Peter Kinder.

The minutes of the February 10, 2003, meeting were approved as corrected herein.

II. BUDGET UPDATE

Senator Foster sponsored Linda Luebbering, State Budget Director, to make a presentation concerning the state budget. Ms. Luebbering referred the members to the handouts that were distributed and gave the following report:

- Missouri is facing its most severe budget crisis. Missouri ranks in about the middle in relation to other states and has an almost \$500 million shortfall at mid-year for fiscal year 2003 and is facing a shortfall of about \$1 billion, or 15% in fiscal year 2004. As a comparison, California has a 30% shortfall.

- The Revenue and Expenditure graphs provide estimated general revenue receipts and estimated general revenue operating budget expenditures for fiscal year 2004. The majority of the receipts come from individual income taxes while the majority of the expenses are spent in the Department of Elementary and Secondary Education.
- The Stagnant Net General Revenue Collections chart illustrates that from fiscal year 1999 through fiscal year 2004 general revenue collections have stagnated. There has, however, been an increase in Medicaid and pharmaceuticals expenditures. In addition, the Department of Corrections has more inmates. The revenue received is level but there are increasing demands for expenditures in the Department of Elementary and Secondary Education, Corrections, Medicaid and children's programs.
- The State Averages of Tax Revenue Per Capita graph shows how Missouri ranks in comparison with other states and the U.S. average concerning tax revenue per capita.
- The Recently Enacted Tax Cuts report and Loss to Missouri Revenue from Federal Tax Cuts graph show the loss and projected loss of revenue as a result of federal tax cuts. She advised that 45 to 48 states have significant budget shortfalls, but she believes that Missouri will pull out of this situation.
- There had been \$672 million in tax cuts between 1995 and 1999. In addition, the sales tax on food was eliminated.
- A change in the federal tax system always affects the state tax system. In fiscal year 2004, there will be between \$170 million and \$180 million not available to the General Assembly for appropriations.
- The Department of Social Services is given an appropriation of money from the General Assembly. This provides flexibility as to how the Department spends the money for programs. The chart on Funding for Children's Protective Services Programs shows that in state fiscal year 2002, the total appropriation for Children's Protective Services Programs is \$215,451,011. The governor's recommendation for fiscal year 2004 is \$233,730,505.
- No monies have been withheld in fiscal year 2002 or 2003 for Children's Services, even though the state had five rounds of withholdings. However, certain payments have been cut. For example, the Department of Social Services was buying things for children in foster care which were not supportable (i.e. computers, etc.).
- There is more money available in the adoption subsidy program. It is anticipated that future growth will be in permanency programs and not in foster care or residential treatment. The federal government would be happy to match more money if Missouri made available general revenue for adoptive parents, but it is difficult for the state to come up with additional money.
- Other states are also looking at additional revenue options, including "sin taxes" on items such as cigarettes, gambling and liquor and some states are looking within the income tax system to make tax increases.

- Federal cuts are across the board and that consistent cut is Medicaid. There is pressure on states to stay in regulatory compliance; however, lack of funding makes it difficult.
- 70% to 80% of the human services budget is spent on senior and disabled programs for Medicaid. The remainder is spent for institutional services, public health services and community services for seniors.
- Missouri does a good job with its Title IV-E funding but it could do better and the DSS was working on plans to maximize the funding.
- If the Hancock legislation had not been enacted, assuming everything else being equal, projections show that there would be around \$900 million more available to the State.

Ms. Luebbering closed by stressing that Missouri needs a permanent fix to the problem not a temporary fix.

The Chair thanked Ms. Luebbering for her presentation.

III. CHILDREN'S TREATMENT SERVICES FUND

Mr. Renne made a presentation on the current budget situation as it related to the Children's Protective Services budget and distributed a handout to the Commission for their reference. Mr. Renne reported that for State Fiscal Year 2002:

- Missouri had the second highest rate of child abuse/neglect hot line calls in the country, which is 73.2 referrals per 1,000 child population
- Approximately 84,000 hot line calls were received.
- 61% of the reports resulted in a determination of no intervention or services indicated and 39% resulted in a determination of intervention or services indicated.
- 91% of the children involved in these reports are not placed in the custody of the Department of Social Services, Division of Family Services (DFS).
- Since 1998 the number of children per 1,000 in the custody of DFS during the year increased from 11.77 in 1998 to 13.28 in 2002.
- Length of stay in custody has decreased over time. In 1998, the average length of stay of a child in DFS custody was 27.5 months compared to 24 months in 2002.
- Of the children who left DFS care and custody, 50% were returned home, 20.3% were adopted, 8.0% were placed with legal guardians, and the remainder were in the category of other, which includes placement with other relatives, other agencies or runaway status.
- DFS is currently allocated 1,384 social workers and would need an additional 432 workers to meet national accreditation standards.

In response to inquiries from several Commission members, Mr. Renne responded that:

- Missouri's hot line is well publicized and that DFS is more responsive to hot line calls.
- Most other states have a higher threshold of calls they investigate.
- Missouri has a law in place for false reporting and those referrals are made to appropriate prosecuting attorneys.
- Mandated Reporter referrals are not shown on the chart. In those cases workers have thirty days to respond.
- 25% of the hot line calls are coded as "unable to investigate" because there is not enough information to conduct a proper investigation. It is likely that in most of those cases a referral had been made to another agency.
- DFS is taken steps to insure consistency at the state level and across counties in how reports are taken and investigated, including implementation of structured decision-making. There are also plans underway to place responsibility for determining if a report should be coded as a hotline or a family assessment at the state Central Registry Unit level and not at the county level.
- DFS is funded for 1,384 social workers, not including support staff.

Senator Foster requested clarification on the role of law enforcement in the investigations. Mr. Renne responded that the threshold is not the same for the child abuse/neglect hot line as it is for criminal cases. DFS staff is there to protect the child and the families. DFS workers do not file criminal charges, but are investigating the safety of a child.

At the request of several members for additional information on changes to hotline policies and procedures, including how long unsubstantiated cases are kept, structured decision making, and the need to learn what kinds of problems workers in the field are facing, the Chair advised that the proposed decision making procedures for handling hot line calls would be added to the agenda for the meeting in two weeks.

The Chair thanked Mr. Renne for his presentation.

IV. SENATE BILL 43

Senator Dougherty requested that Senate Bill 43 be placed on the February 24, 2003 agenda.

V. SENATE BILL 430

Senator Norma Champion of District 30 presented a summary of Senate Bill 430 as follows:

- Would make certain changes related to conducting investigations for the licensing of foster parents, to include a search for ex-parte or full orders of protection under the Adult Abuse Act related to any adult in the applicant household and fingerprinting of any foster parent applicants.

- Forbid discrimination against any relative of a child in protective custody based solely on the age of the relative and forbid DFS from basing any decision not to place a child with a relative on a belief that a relative has not been a good parent, without evidence of criminal or abusive behavior.
- Require DFS to abide by the provisions of the Indian Child Welfare Act.
- Require notification to parents where the placement of the child is to be changed except where there is imminent harm or danger.
- Prohibit DFS from removing a child from school for placement into foster care without a court order.
- Require DFS to arrange a team meeting prior to any action being taken on a child in custody, and to develop and utilize a form to confirm that the involved parties are aware of the team's decision and to record dissenting views.
- Make records of a child in protective custody compiled by DFS available for review to the parents, and in the case of a death of a child in protective custody, to the public.

Senator Champion described her proposal as a pilot project for Greene County, Missouri and stated there would be no additional cost except for the cost of fingerprinting to be paid by the foster parents. Senator Champion said that her proposal would raise the level of public confidence, eliminate discrimination and provide a code of standards for training and evaluation and criteria to evaluate foster parents. Many of the complaints she has heard from her constituents are DFS treats the family like the enemy. She is trying to assure children are removed based on objective, rather than subjective criteria and that removal should occur only when it is necessary.

In response to inquiries from numerous Commission members, Senator Champion replied that:

- In cases where a child makes a report at school to a teacher or counselor, the court could respond with a court order for removal and if the child was in danger the removal should still take place, and the bill does not require advanced notification to parents prior to removal.
- Performance based measures for foster parents were included because she wants foster parents to be evaluated in relation to DFS current policy expectations, and she would review Senators Dougherty and Sims bill that was passed last year which included a foster parents bill of rights.
- The section of the family support team meeting requirements was based on existing DFS policy and she has no intention to change the process of team meetings. Her concern is that there be written documentation of what was agreed to at the meetings.
- In response to who should be invited to the team meetings she clarified that the bill language is permissive and that she does not want to dictate to DFS who would be in the team meetings.
- Language on the Indian Child Welfare Act was included because Native American families are

part of her constituent area and she feels that they have not been given appropriate consideration. She had been informed that in some cases the Act is not always followed and she wants Missouri law to require adherence to the existing federal act. She added that she did not know whether or not this same provision applied to African American families.

The Chair thanked Senator Champion for her presentation.

VI. PRIVATIZATION

Senator Sims announced that Dick Matt was not present and requested this item be moved to next week's agenda.

VII. COMMISSION DISCUSSION

The Chair announced that since the Commission is to have an interim report prepared by March 28, 2003, the Commission will need to set aside some time at each meeting to begin the work of formalizing recommendations for both short-term and long-term solutions. He also emphasized that the Supreme Court is looking for realistic solutions and not simply a listing of problems.

Discussion was held on how to approach this task. Several possibilities were discussed, including

- Creating a list of three short term and three long term goals and identifying which branch, judicial, legislative, or executive would have the lead for addressing a specific goals
- Topics that were identified included DFS policy and statutes, court issues related to policy, funding issues, privatization issues and foster care issues
- Forming work groups, comprised of representatives from each branch of the three branches and given specific topics to address and define solutions.

A general discussion was had concerning the logistics of whether individual work groups would meet each time the Commission had a meeting or whether there would be meetings at other times.

The Chair announced that future meetings would devote more time to the break out or work groups.

VIII. NEXT MEETING/ADJOURNMENT

The Chair announced that the next meeting would be held in the Division II Courtroom, Missouri Supreme Court, Jefferson City, Missouri, at 10:00 a.m. on February 24, 2003.

The meeting was adjourned at noon.